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APR 11 2002

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In re Application of
John Van Hamont et al
Serial No.: 09/478,822
Filed: January 6, 2000
Attorney Docket No.: Army-104

PETITION DECISION

This is a decision on the Petition under 37 CFR 1.181, filed July 2, 2001, to Withdraw Holding of Abandonment based on filing of a timely reply to the Office action mailed November 30, 2000.

A review of the file history shows that the examiner mailed a first Office action to applicant on July 30, 2000, setting a three month shortened statutory period for reply. Applicants replied on August 10, 2000. The examiner mailed a second non-final Office action to applicants on November 30, 2000, setting a three month shortened statutory period for reply. Applicants claim that a reply was filed on March 30, 2001, accompanied by a one month extension of time and fee therefor. The reply has not been correlated with the file. On June 20, 2001, a Notice of Abandonment was mailed to applicants. On July 2, 2001, this petition was filed accompanied by a copy of the previously filed amendment. The original copy of this petition has not been correlated with this file, but a facsimile transmitted copy, filed April 3, 2002, with the examiner, is being used.

A review of the papers and copies of papers filed March 30, 2001 and July 2, 2001, and those transmitted by facsimile (and also papers filed earlier in the prosecution of this reissue application) show that applicants have consistently used at least three different Serial Numbers to identify on papers submitted to the Office. In some instances, such as on the return postcard, the SN of this application, 09/478882 is used. On the cover sheet of the reply SN 08/698896 (the SN of the application which issued as a patent) is frequently used with the SN of this application as a header on other pages of the reply. In other instances, SN 09/698896 is used. That application is unrelated to this application. In other instances, the Patent Number has also been used to identify the application to which the paper should be directed. All of these different numbers have caused confusion to the Office in directing papers to the proper application file. It is also the likely cause of the Office misplacing the reply submitted March 30, 2001, and the petition submitted July 2, 2001. The Office cannot be held responsible for directing papers with incorrect Serial Numbers to the correct application file (although efforts are made to do so) considering the volume of mail received and processed each day.

However, as applicants did make a proper reply (directed to the patented file rather than the instant application file) and authorize charging of the fee for the extension of time to a Deposit Account, the reply is considered timely. Therefor the Notice of Abandonment, mailed June 20, 2001, was mailed in error and is hereby withdrawn and the application restored to pending status.

Applicant's petition under 37 CFR 1.181 is GRANTED.

The fee of \$110.00 for a one month extension of time for the reply submitted March 30, 2001, will be charged to applicants Deposit Account No. 21-0380, as directed.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7922.



John Doll

Director, Technology Center 1600